

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**  
JUN 21 2016  
Clerk, U.S. District Court  
District Of Montana  
Missoula

LAVANNA BIRD,

Petitioner,

vs.

MONTANA PAROLE BOARD,  
ATTORNEY GENERAL OF THE  
STATE OF MONTANA,

Respondents.

CV 16-31-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered Findings and a Recommendation in this matter on May 16, 2016, recommending dismissal and denial of Petitioner Lavanna Bird's ("Bird") application for writ of habeas corpus under 28 U.S.C. § 2254. Bird timely filed an objection and is therefore entitled to de novo review of those Findings and Recommendation to which she specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). "Clear error exists if the Court is left with a definite and firm conviction that a mistake has been committed." *United*

*States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Having reviewed Bird's "objection," the Court finds that she fails to allege any error in Judge Johnston's legal reasoning and, instead, simply asks this Court to conduct a general review of the Findings and Recommendation. Accordingly, the Court will review the recommendation to deny the petition for clear error.

Having done so, the Court agrees with Judge Johnston that the petition must be denied on the merits because Bird fails to allege that she has been held in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). Bird seeks review of the Parole Board's decision to deny her parole.

However, as stated by Judge Johnston, there is no federal right to parole nor a state liberty interest implicated by the denial of parole. *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) ("There is no right under the Federal Constitution to be conditionally released before the expiration of a valid sentence."); *Worden v. Mont. Bd. of Pardons & Parole*, 962 P. 2d 1157, 1165 (Mont. 1998). As such, Bird's petition must be denied and this matter will be dismissed.

IT IS ORDERED that:

(1) Judge Johnston's Findings and Recommendation (Doc. 3) are  
ADOPTED IN FULL.

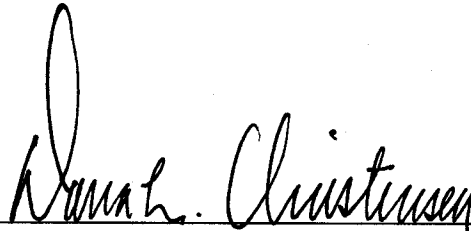
(2) Bird's petition (Doc. 1) is DISMISSED and DENIED for lack of merit

and failure to exhaust.

(3) The Clerk of Court should be directed to enter, by separate document, a judgment of dismissal.

(4) A certificate of appealability is DENIED

DATED this 21<sup>st</sup> day of June, 2016.

A handwritten signature in cursive script, reading "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court